

UNITED STATES DISTRICT COURT

for

EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

U.S.A. vs. Burnis Floyd

Docket No. 5:98-CR-169-1F

Petition for Action on Supervised Release

COMES NOW Eddie J. Smith, probation officer of the court, presenting a petition for modification of the Judgment and Commitment Order of Burnis Floyd, who, upon an earlier plea of guilty to 18 U.S.C. § 2113(a) and (d), Armed Bank Robbery (4 counts), was sentenced by the Honorable James C. Fox, Senior U.S. District Judge, on February 22, 1999, to the custody of the Bureau of Prisons for a term of 97 months. It was further ordered that upon release from imprisonment the defendant be placed on supervised release for 60 months under the standard conditions adopted by the court and the following additional conditions:

1. The defendant shall participate as directed in a program approved by the probation office for the treatment of narcotic addiction, drug dependency, or alcohol dependency which will include urinalysis testing or other drug detection measures and may require residence or participation in a residential treatment facility.
2. The defendant shall consent to a warrantless search by a United States Probation Officer or, at the request of the probation officer, any other law enforcement officer, of the defendant's person and premises, including any vehicle, to determine compliance with the conditions of this judgment.

Additionally, the defendant was ordered to pay restitution in the amount of \$17,317.92. Burnis Floyd was released from custody on October 28, 2005, at which time the term of supervised release commenced. On March 27, 2008, as a result of a Driving While Impaired charge, the court modified the conditions of supervision to include the following:

The defendant shall abide by all conditions and terms of the home detention program for a period not to exceed 90 consecutive days. The defendant shall be restricted to his residence at all times except for pre-approved and scheduled absences for employment, education, religious activities, treatment, attorney visits, court appearances, court obligations or other activities as approved by the probation officer. The defendant shall wear an electronic monitoring device and follow electronic monitoring procedures specified by the probation officer.

On October 3, 2008, as a result of another Driving While Impaired charge, the court modified the conditions of supervision to include the following:

1. The defendant shall abstain from the use of any alcoholic beverages, shall not associate with individuals consuming alcoholic beverages, shall not frequent business establishments whose primary product to the consumer is alcoholic beverages, and shall not use any medication

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containing alcohol without the permission of the probation office or a prescription from a licensed physician.

2. The defendant shall be confined in the custody of the Bureau of Prisons for a period of 30 days, as arranged by the probation officer and shall abide by all rules and regulations of the designated facility.
3. The defendant shall not operate a motor vehicle on a public highway until his privilege to do so is restored in accordance with law.

RESPECTFULLY PRESENTING PETITION FOR ACTION OF COURT FOR CAUSE AS FOLLOWS: On June 4, 2010, the defendant was charged in Bladen County with the offense of Assault on a Female (10CR51391). According to the defendant, his wife was assaulting him and he contacted the Bladen County Sheriff's Department to respond to their residence. When deputies arrived, the wife claimed the defendant had also assaulted her. Both were arrested and charged with assault. The charge against the defendant was dismissed on June 17, 2010. The defendant's wife reports she only filed the charge after she discovered she was going to be arrested. According to the arrest report, the defendant was intoxicated when officers arrived. The probation officer confronted the defendant about his alcohol use prior to this incident and he admits to drinking a "couple" of beers. Due to his documented history of alcohol abuse, we are recommending that the conditions of supervision be modified to include remote alcohol testing and a curfew for 30 days.

The defendant signed a Waiver of Hearing agreeing to the proposed modification of supervision.

The defendant continues to be in arrears on his restitution payments. Payments were established at \$30 per month beginning on January 5, 2006. During the period of supervision, he has paid a total of \$625 and is currently \$635 in arrears. Recently, the defendant agreed to have his wages garnished in the amount of \$20 per month. The order has been submitted to his employer for their signature. Upon receipt of this order from his employer, it will be submitted to the court for approval. At this time, we are recommending that supervision be continued and modified.

PRAYING THAT THE COURT WILL ORDER that supervised release be modified as follows:

1. The defendant shall adhere to a curfew from 9:00 p.m. to 6:00 a.m., or as directed by the probation officer for a period not to exceed 30 consecutive days. The defendant is restricted to his residence during the curfew hours.

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2. The defendant shall abide by all terms and conditions of the Remote Alcohol Monitoring Program, as directed by the probation officer, for a period not to exceed 30 consecutive days. The defendant shall comply with the program procedures and shall pay all costs associated with remote alcohol monitoring services.

Except as herein modified, the judgment shall remain in full force and effect.

Reviewed and approved,

I declare under penalty of perjury that the foregoing is true and correct.

/s/Robert L. Thornton
Robert L. Thornton
Supervising U.S. Probation Officer

/s/Eddie J. Smith
Eddie J. Smith
U.S. Probation Officer
310 Dick Street
Fayetteville, NC 28301-5730
Phone: (910) 483-8613
Executed On: June 21, 2010

ORDER OF COURT

Considered and ordered this 22nd day of June, 2010, and ordered filed and made a part of the records in the above case.

James C. Fox
James C. Fox
Senior U.S. District Judge